

MICHAEL FEUER, City Attorney
KATHLEEN A. KENEALY, Chief Assistant City Attorney (SBN 212289)
SCOTT MARCUS, Senior Assistant City Attorney (SBN 184980)
GABRIEL DERMER, Assistant City Attorney (SBN 229424)
FELIX LEBRON, Deputy City Attorney (SBN 232984)
A. PATRICIA URSEA, Deputy City Atty (SBN 221637)
200 N. Main Street, City Hall East, Room 675
Los Angeles, CA 90012
Telephone (213) 978-7569
Facsimile (213) 978-7011
Felix.Lebron@lacity.org
Patricia.Ursea@lacity.org

Attorneys for Defendant, CITY OF LOS ANGELES

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JANET GARCIA, GLADYS ZEPEDA,
MIRIAM ZAMORA, ALI EL-BEY, PETER
DIOCSION JR., MARQUIS ASHLEY, JAMES
HAUGABROOK, individuals, KTOWN FOR
ALL, an unincorporated association,
ASSOCIATION FOR RESPONSIBLE and
EQUITABLE PUBLIC SPENDING an
unincorporated association.

Plaintiffs,

VS.

CITY OF LOS ANGELES, a municipal entity;
DOES 1-50.

Defendant(s).

Case No.: 2:19-cv-6182-DSF-PLA
Assigned to Judge Dale S. Fischer

**DECLARATION OF GORDON
HAINES ISO DEFENDANT CITY
OF LOS ANGELES'
OPPOSITION TO MOTION FOR
PRELIMINARY INJUNCTION**

Concurrently Filed Documents:

- Memorandum of Points & Authorities ISO Opposition
- Declarations ISO Opposition:
Dermer, Wong, Pereida,
Ramirez, Rankin, Guerrero,
Haines, Medina, Banks, Bernal,
Rodriguez, Diaz
- Request for Judicial Notice
- Evidentiary Objections

Date: March 30, 2020
Time: 1:30 p.m.
Ctrm: 7D

1 I, GORDON HAINES DECLARE:

2 1. I am an Environmental Specialist III for the City of Los Angeles
3 Department of Public Works, Bureau of Sanitation’s (“LASAN”) Watershed Protection
4 Division. I have personal knowledge of the facts set forth in this Declaration except as to
5 those matters based upon my information and belief or upon my review of business
6 records, and if called upon to testify to the truth of these matters, I could and would
7 competently do so.

8 2. I have worked for the City for 11 years and at LASAN’s Watershed
9 Protection Division (WPD) for the past 5 years as an Environmental Specialist III. My
10 duties as an Environmental Specialist III include managing the start-up, monitoring and
11 operations and maintenance activities for some of the City’s Clean Water Bond
12 (Proposition O) projects. As part of my duties, I coordinate operation and maintenance
13 activities for lake, wetland, and natural treatment systems and manage contracts related to
14 oversight, monitoring, evaluation, and operation and maintenance activities at City
15 Proposition O projects. These projects help the City and LASAN to comply with
16 stormwater permit (MS4) regulations.

17 3. In my work at LASAN, one of the City projects that I have a management
18 role in monitoring and in operations and maintenance activities is the Harbor City
19 Greenway (which is also referred to as the Machado Lake Phase I (Wilmington Drain)
20 project). I am currently performing similar duties for at least three greenway and natural
21 treatment projects.

22 4. A greenway is a “park-like” environment that also serves water quality
23 improvement purposes. While a greenway includes open space for the public, ADA-
24 accessible walking paths, and native plant habitat, a main purpose of a greenway project
25 is to capture and clean polluted urban runoff water and often also entails educating the
26 public on conservation, best management practices, and the role of native plants in
27 cleaning and conserving water and reducing pollution. A greenway project often includes
28 flood protection, water quality improvement components, and aesthetic and

1 recreational benefits.

2 5. In regard to the Harbor City Greenway, the City restored a half-mile storm
3 channel to its former flood control capacity and constructed a greenway through funding
4 by Proposition O Clean Water Bond, and reimbursements from the Los Angeles County
5 Flood Control District as well as the State of California Department of Water Resources.
6 The greenway gives City residents access to 4.5 acres of green space and helps to clean
7 runoff water before it flows downstream into the Machado Lake ecosystem. The entire
8 project is over 20 acres and total project cost was \$24,688,156.

9 6. The purpose of this project is to improve stormwater quality, restore and
10 maintain flood control capacity, remove sediment and invasive vegetation, rehabilitate
11 native plant habitats, and provide open space for the community. The project included
12 the installation of a trash net system to capture the trash in upstream stormwater flows
13 and the restoration of habitat for federally endangered species of bird within the storm
14 channel. The greenway includes a landscaped walkway for public use that is also
15 adjacent to a watercourse and includes open space, recreational opportunities, as well as
16 wildlife viewing for the public.

17 7. Attached as **Exhibit 1** are true and correct copies of photographs of the
18 Harbor City Greenway, including the accessible portion to the public, which I took in
19 autumn 2015 shortly after opening.

20 8. Within months of the opening of the Harbor City Greenway, the project
21 began to suffer from vandalism, theft, and illegal activities including camping. In the
22 beginning of 2018, the City witnessed an increase in the consequences of vandalism, theft
23 and illegal activities at the project site (both in areas open to the public and closed). I
24 have personally seen the damage to the project components and have an estimated
25 hundreds of pictures documenting this.

26 9. Attached as **Exhibit 2** are true and correct copies of photographs that I took,
27 or were taken by a maintenance contractor under my supervision as part of his regular
28 duties, that show damage to such items as stolen and destroyed solar power lighting, as

1 well as damage to landscaping and habitat (which threatens the success of the federally
2 and California protected endangered bird species covered by this project).

3 10. The City obtained permits, including from California Department of Fish
4 and Wildlife, as part of this project that requires restoration and/or establishment of
5 habitat as well as ongoing management of this habitat. Destruction of the habitat by
6 illegal campers jeopardizes the City's long-term permit compliance. In addition to the
7 laudable environmental purposes served by habitat restoration and maintenance
8 requirements that the City takes seriously, permit non-compliance could expose the City
9 to suspension or revocation of its California Fish and Wildlife issued Incidental Take
10 Permit (*see, e.g.*, 14 Cal. Code of Regs. §783.7), or statutory penalties associated with an
11 unpermitted take of the protected bird species. The Endangered Species Act authorizes
12 courts to impose civil penalties of up to \$25,000 for each knowing violation. 16 U.S.C. §
13 1540(a). If criminal charges are brought for knowing violations, a court may impose
14 fines of up to \$50,000 and/or imprisonment for up to one year. *Id.* Other violations (i.e.,
15 non-knowing violations) may cost up to \$500 per take. *Id.*

16 11. There has been increased trash and debris disposal from illegal camping that
17 I have witnessed during the operational period of the project and that adversely impacts
18 the trash capture system as well as the parking lot, entrances and walkways of the
19 greenway. Trash capture is one of the water quality benefits of this project.

20 12. In June 2018, the City closed public access to this project. Initially, the City
21 closed access because of safety concerns due to flood control reasons coupled with the
22 security issues posed by all of the vandalism in and around the greenway. The reason that
23 access remained closed to this day is because of the illegal camping, vandalism, storage
24 and dumping of items both inside and on the perimeter of the greenway that render this
25 area unsafe and not readily securable. I am familiar with the foregoing because I
26 informed the decision makers prior to the closure that due to the trespassing, vandalism
27 and theft issues, the City cannot lock the gates or keep them shut, the fences have holes,
28 and that the City could not maintain security of the area.

1 13. I have personally received and/or been forwarded resident and stakeholder
2 complaints about the conditions at the greenway, including complaints about loss of
3 access, threats to public safety, and degradation of the community's quality of life. For
4 example, attached as **Exhibit 3** is a true and correct copy of an email chain containing
5 negative comments about these issues from representatives of the local chapter of the
6 Palos Verdes/South Bay Audubon Society and California Native Plant Society. I am
7 informed and believed that Council District 15, and the City's Public Works Public
8 Affairs Office have received numerous constituent complaints, and other complaints have
9 been posted on LASAN's social media sites. Examples of these social media postings are
10 included in **Exhibit 4**.

11 14. Since the closure of public access to the greenway, the City has put a lot of
12 effort and expense to get the greenway back open and more efforts are planned. In
13 September 2018, I accompanied other LASAN personnel, LAPD officers, and Council
14 District 15 staff on a walkthrough of the greenway to assess damage, dumping, illegal
15 camping activities, and other concerns to consider whether there was any reasonable
16 ability to secure the facility from the impacts of all of these activities. Subsequently, the
17 City developed action items to manage and secure the facility for reopening to the public.
18 These include include repairs, replacements and upgrades to fences and gates, posting
19 signage, lighting, ongoing anti-graffiti mitigation and vegetation management according
20 to security recommendations. LASAN has been addressing these items since 2018, but
21 there is more to be done.

22 15. Leading up to closure of the public access to the greenway, I regularly
23 requested (often on a monthly basis) assistance from the City's HOPE teams to address
24 an increased need for removal of personal items, including many bulky items that were
25 stored or dumped in the area. New items appear in the greenway area almost daily. I
26 have witnessed and have had reports of dumped items accumulating daily.

27 16. LAFD has also had to respond to fires caused by illegal activity and camps
28 in the Harbor City Greenway. Attached as **Exhibit 5** is a true and correct copy of a

1 photograph in my records of such a fire being put out by LAFD in September 2019.

2 17. In response to my request on a number of occasions, in addition to requests
3 by other City agencies about which I am generally aware, Los Angeles County has sent
4 response teams to address an ongoing number of trespassers in the channel.

18. Aggressive and threatening individuals and hazardous items (i.e. sharps, bio-waste) have endangered City workers, City contractors, and residents.

7 19. The City received a lot of community support for this greenway project
8 located adjacent to a disadvantaged, heavily industrialized community. LASAN is
9 disappointed that the community access has been limited for legitimate security concerns,
10 and that the full benefit of the project has not been realized due to illegal activity,
11 including dumping of bulky items, trash and debris, food waste, hazardous materials, and
12 other illegal camping impacts.

13 20. I declare under penalty of perjury under the laws of the United States of
14 America that the foregoing is true and correct to the best of my knowledge, and as to
15 those matters based upon my information and belief, I am informed and believe them
16 to be true and correct. Executed on March 9th, 2020 in Los Angeles, California.

John H. S.

GORDON HAINES

EXHIBIT 1









EXHIBIT 2









09/20/2017 12:20



EXHIBIT 3



Gordon Haines <gordon.haines@lacity.org>

Re: Fw: [LACoBirds] Hermit Warbler at Harbor Park in Harbor City

1 message

David A. Sundstrom <dasundstrom@gmail.com>
To: David Quadhamer <dquadhamer@yahoo.com>
Cc: Gordon Haines <gordon.haines@lacity.org>, Lenny Arkinstall <lennyeva@earthlink.net>

Wed, Feb 7, 2018 at 11:39 AM

Hi David,

Thanks for the link to Bernardo's pictures. His Mallard shots look like a reference standard!

I also appreciate Bernardo's frank assessment of the area. As the saying goes, we only have one chance to make a first impression -- and with the homeless being so dominant we are scaring away families and the other intended recreational users.

On the bright side, it is somewhat encouraging to see the amount of press and resources that are now being devoted to the homeless problem. Also, while the recreational war is being lost, at least we are providing some halfway decent habitat for birds.

Best regards,

David S.

On Wed, Feb 7, 2018 at 9:56 AM, David Quadhamer <dquadhamer@yahoo.com> wrote:

Hi David, Gordon and Lenny,

This was posted to the LA County Birds Yahoo group. Thought you might be interested in Bernardo's description of the area.

David

----- Forwarded Message -----

From: "Bernardo Alps whalephoto@earthlink.net [LACoBirds]" <LACoBirds-noreply@yahoogroups.com>
To: LACoBirds <LACoBirds@yahoogroups.com>
Sent: Wednesday, February 7, 2018 1:18 AM
Subject: [LACoBirds] Hermit Warbler at Harbor Park in Harbor City

Hi all.

On Tuesday afternoon I found a first-year Hermit Warbler in the North End Willows at Ken Mally Harbor Regional Park in Harbor City. The bird was roughly halfway between the Wilmington Drain and the condos to the east of the park, about 50 meters south of Pacific Coast Highway, 33.790529, -118.286779.

The area is not for the faint of heart. I tend to have a cordial relationship with homeless people on birding excursions, but this area is more like a post-apocalyptic nightmare out of a Mad Max movie.

Photos in my eBird checklist, <https://ebird.org/view/checklist/S42550498>

Take care,

Bernardo

--
Bernardo Alps
Wildlife Biologist
California Whales & Wildlife
www.photocetus.com
bernardo.alps@gmail.com
310.597.0449
P.O. Box 1667
San Pedro, CA 90733

Posted by: Bernardo Alps <whalephoto@earthlink.net>

[Reply via web post](#) • [Reply to sender](#) • [Reply to group](#) • [Start a New Topic](#) • [Messages in this topic \(1\)](#)



Have you tried the highest rated email app?

With 4.5 stars in iTunes, the Yahoo Mail app is the highest rated email app on the market. What are you waiting for? Now you can access all your inboxes (Gmail, Outlook, AOL and more) in one place. Never delete an email again with 1000GB of free cloud storage.

Unsubscribe: <mailto:LACoBirds-unsubscribe@yahoogroups.com>

Website: <http://groups.yahoo.com/group/LACoBirds>

Listowners: <mailto:LACoBirds-owner@yahoogroups.com>

For vacation suspension of mail go to the website. Click on Edit My Membership and set your mail option to No Email. Or, send a blank email to these addresses:

Turn off email delivery: <mailto:LACoBirds-nomail@yahoogroups.com>

Resume email delivery: <mailto:LACoBirds-normal@yahoogroups.com>

[VISIT YOUR GROUP](#)

YAHOO! GROUPS

• [Privacy](#) • [Unsubscribe](#) • [Terms of Use](#)

EXHIBIT 4



Los Angeles Sanitation & Environment

June 8, 2018 ·

Please note that the Harbor City Greenway is closed until further notice due to unsafe conditions. We apologize for the inconvenience and will notify you when it opens again. If you have any questions or concerns, you can reach our Public Affairs Office at 213-978-0333.

Councilmember Joe Buscaino Harbor City, California Wilmington, California



7

5 Comments 3 Shares

Like

Comment

Share

Most Relevant



Write a comment...



Amanda Olea Welp the homeless have taken that over too, it was just a matter of time. Shame, so much time and \$\$ spent making it so nice for it to be now deemed unsafe. The civilized members of the city cant utilize the greenway anyway unless you want to walk past that mess that the homeless have created.

Like · Reply · 1y · Edited

2



Saundra Parks But just like all our other complaints with the homeless, they ignore us until they can't because it's deemed a health hazard or something. Never mind the paying tax voters.

1

[Like](#) · [Reply](#) · 1y



Amanda Olea Saundra Parks exactly. It's so disgusting down that street along side the greenway, trash piled up, bikes on top of bikes, rv's and people blatantly sitting out there using and exchanging drugs in plain sight. They use the portable toilets across the way to use drugs in also, and I'm sure the city is paying for the security guards watching the damn portables wtf are they even being paid to do?????

1

[Like](#) · [Reply](#) · 1y



Saundra Parks Idk. But no ones been able to give me an answer about what happens when that funding for the 6 month security runs out either. So seems like a whole lot of wasted money and then they'll be moved back in. Just like always.

[Like](#) · [Reply](#) · 1y · Edited



Write a reply...

PJ Titalii Harbor City is being overtaken by the homeless

[Like](#) · [Reply](#) · 1y

EXHIBIT 5

